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Message Text

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PAGE 01 MANILA 03060 161115 Z

14
ACTION L-03

INFO OCT-01 EA-11 ADP-00 SCA-01 JUSE-00 CIAE-00 INR-09

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---------- 071106
P 160753 Z MAR 73
FM AMEMBASSY MANILA
TO SECSTATE WASHDC PRIORITY 3819

UNCLAS SECTION ONE OF THREE MANILA 3060/1

E. O. 11652: NA
TAGS: PFOR RP
SUBJECT: PHILIPPINE DRAFT OF RP/ U. S. EXTRADITION

REF: MANILA 3022

1. EMBASSY RECEIVED MAR 16 COPY OF PHILIPPINE DRAFT TREATY ON EXTRADITION MENTIONED REFTEL. THE FOLLOWING IS A VERBATIM COPY:

2. BEGIN TEXT: QUOTE TREATY ON EXTRADITION BETWEEN THE REPUBLIC OF THE PHILIPPINES AND THE UNITED STATES OF AMERICA

THE REPUBLIC OF THE PHILIPPINES AND THE UNITED STATES OF AMERICA, DESIRING TO MAKE MORE EFFECTIVE THE COOPERATION OF THE TWO COUNTRIES FOR THE RECIPROCAL EXTRADITION OF OFFENDERS, AGREES AS FOLLOWS: ARTICLE I

EACH CONTRACTING PARTY AGREES TO EXTRADITE TO THE OTHER, IN THE CIRCUMSTANCES AND SUBJECT TO THE CONDITIONS DESCRIBED IN THIS TREATY, PERSONS FOUND IN ITS TERRITORY WHO HAVE BEEN CHARGED WITH OR CONVICTED OF ANY OF THE OFFENSES IN ARTICLE II OF THIS TREATY COMMITTED WITHING THE TERRITORY OF THE OTHER .

ARTICLE II

A REQUESTED PARTY SHALL EXTRADITE A PERSON SOUGHT, FOR AN OFFENSE -
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1. FOR WHICH THE LAW OF THE REQUESTING PARTY, IN FORCE WHEN THE OFFENSE WAS COMMITTED, PROVIDES A POSSIBLE PENALTY OF DEATH OR DEPRIVATION OF LIBERTY FOR A PERIOD OF TWO YEARS OR MORE; AND

2. FOR WHICH THE LAW, IN FORCE IN THAT PART OF THE TERRITORY OF THE REQUESTED PARTY IN WHICH THE PERSON SOUGHT MAY BE FOUND, PROVIDES A POSSIBLE PENALTY OF DEATH OR DEPRIVATION OF LIBERTY FOR A PERIOD OF TWO YEARS OR MORE, WHICH MAY BE APPLICABLE OF THE OFFENSE WERE THERE COMMITTED.

ARTICLE III

A REFERENCE IN THIS TREATY TO THE TERRITORY OF A CONTRACTING PARTY IS A REFERENCE TO ALL THE TERRITORY FALLING UNDER THE JURISDICTION OF THAT CONTRACTING PARTY, INCLUDING THE TERRITORIAL WATERS, AND THE AIRSPACE THEREOVER BELONGING TO OR UNDER THE CONTROL OF THAT CONTRACTING PARTY IN ACCORDANCE WITH ITS LAWS, AS WELL AS VESSELS AND AIRCRAFT BELONGING TO IT OR TO A CITIZEN OR CORPORATION THEREOF WHEN SUCH VESSELS ARE ON THE HIGH SEAS OR SUCH AIRCRAFT ARE OVER THE HIGH SEAS.

ARTICLE IV

EXTRADITION SHALL BE GRANTED ONLY IF THE EVIDENCE IS FOUND SUFFICIENT, ACCORDING TO THE LAWS OF THE PLACE WHERE THE PERSON SOUGHT MAY BE FOUND, EITHER TO JUSTIFY HIS COMMITTAL FOR TRIAL IF THE OFFENSE OF WHICH HE IS ACCUSED HAD BEEN COMMITTED IN THAT PLACE OR TO PROVE THAT HE IS THE PERSON CONVICTED BY THE COURTS OF THE REQUESTING PARTY.

ARTICLE V

A REQUESTED PARTY SHALL NOT DECLINE TO EXTRADITE A PERSON SOUGHT BECAUSE SUCH PERSON IS A NATIONAL OF THE REQUESTED PARTY.

ARTICLE VI

A. EXTRADITION SHALL NOT BE GRANTED IN ANY OF THE FOLLOWING
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CIRCUMSTANCES:

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1. WHEN THE PERSON WHOSE SURRENDER IS SOUGHT IS BEING PROCEEDED AGAINST OR HAS BEEN TRIED AND DISCHARGED OR PUNISHED IN THE TERRITORY OF THE REQUESTED PARTY FOR THE OFFENSE FOR WHICH HIS EXTRADITION IS REQUESTED.

2. WHEN THE PERSON WHOSE SURRENDER IS SOUGHT HAS BEEN TRIED AND ACQUITTED OR HAS UNDERGONE HIS PUNISHMENT IN A THIRD STATE FOR THE OFFENSE FOR WHICH HIS EXTRADITION IS REQUESTED.

3. WHEN THE PROSECUTION OR THE ENFORCEMENT OF THE PENALTY FOR THE OFFENSE HAS BECOME BARRED BY LAPSE OF TIME ACCORDING TO THE LAWS OF THE REQUESTING PARTY OR WOULD BE BARRED BY LAPSE OF TIME ACCORDING TO THE LAWS OF THE REQUESTED PARTY HAD THE OFFENSE BEEN COMMITTED IN ITS TERRITORY.

4. WHEN THE OFFENSE IN RESPECT OF WHICH THE EXTRADITION IS REQUESTED IS REGARDED BY THE REQUESTED PARTY AS AND OFFENSE OF A POLITICAL CHARACTER, OR THAT PARTY HAS SUBSTANTIAL GROUNDS FOR BELIEVING THAT THE REQUEST FOR EXTRADITION HAS BEEN MADE FOR THE PURPOSE OF TRYING OR PUNISHING A PERSON FOR AN OFFENSE OF THE ABOVE MENTIONED CHARACTER. IF ANY QUESTION ARISES AS TO WHETHER A CASE COMES WITHIN THE PROVISIONS OF THIS SUBPARAGRAPH, THE AUTHORITIES OF THE REQUESTED PARTY SHALL DECIDE.

B. IN APPLYING SUBPARAGRAPH A, 4 OF THIS ARTICLE, THE ATTEMPT, WHETHER CONSUMMATED OR NOT, AGAINST THE LIFE OF THE HEAD OF STATE AND/ OR GOVERNMENT OR OF A MEMBER OF THEIR FAMILIES SHALL NOT BE CONSIDERED A POLITICAL OFFENSE OR AN ACT CONNECTED WITH SUCH OFFENSE.

C. IN APPLYING THE SAME SUBPARAGRAPH A, 4 OF THIS ARTICLE, AN OFFENSE COMMITTED BY FORCE OR INTIMIDATION ON BOARD A COMMERCIAL AIRCRAFT CARRYING PASSENGERS IN SCHEDULED AIR SERVICES OR ON A CHARTER BASIS, WITH THE PURPOSE OF SEIZING OR EXERCISING CONTROL OF SUCH AIRCRAFT, SHALL BE PRESUMED TO HAVE A PREDOMINANT CHARACTER OF A COMMON CRIME WHEN THE CONSE-QUENCES OF THE OFFENSE WERE OR COULD HAVE BEEN GRAVE. THE FACT THAT THE OFFENSE HAS ENDANGERED THE LIVES OR JEOPARDIZED THE SAFETY OF THE PASSENGERS OR CREW WILL BE GIVEN SPECIAL
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CONSIDERATION IN THE DETERMINATION OF THE GRAVITY OF SUCH CONSEQUENCES.

ARTICLE VII

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WHEN THE OFFENSE FOR WHICH THE EXTRADITION IS REQUESTED IS PUNISHABLE BY DEATH UNDER THE LAWS OF THE REQUESTING PARTY, AND THE LAWS OF THE REQUESTED PARTY DO NOT PERMIT SUCH PUNISHMENT FOR THAT OFFENSE, EXTRADITION MAY BE REFUSED UNLESS THE REQUESTING PARTY PROVIDES SUCH ASSURANCES AS THE REQUESTED PARTY CONSIDERS SUFFICIENT THAT THE DEATH PENALTY WILL NOT BE IMPOSED, OR, IF IMPOSED WILL NOT BE EXECUTED.

ARTICLE VIII

WHEN THE PERSON WHOSE EXTRADITION IS REQUESTED IS BEING PROCEEDED AGAINST OR IS SERVING A SENTENCE OR IS OTHERWISE LAWFULLY DETAINED IN THE TERRITORY OF THE REQUESTED PARTY FOR AN OFFENSE OTHER THAN THAT FOR WHICH EXTRADITION HAS BEEN REQUESTED, HIS SURRENDER MAY BE DEFERRED UNTIL THE CONCLUSION OF THE PROCEEDINGS AND THE FULL EXECUTION OF ANY PUNISHMENT HE MAY BE OR MAY HAVE BEEN AWARDED.

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*** Current Handling Restrictions *** n/a
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Disposition Authority: n/a
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Disposition Date: 01 JAN 1960
Disposition Event:
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Disposition Reason:
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